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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 141021887-5172-02]

RIN 0648-XE367

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2016 Bering Sea and Aleutian Islands Pollock, Atka Mackerel, and Pacific cod Total Allowable Catch Amounts

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS is adjusting the 2016 total allowable catch (TAC) amounts for the Bering Sea and Aleutian Islands (BSAI) pollock, Atka mackerel, and Pacific cod fisheries. This action is necessary because NMFS has determined these TACs are incorrectly specified, and will ensure the BSAI pollock, Atka mackerel, and Pacific cod TACs are the appropriate amounts based on the best available scientific information. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 1, 2016, until the effective date of the final 2016 and 2017 harvest specifications for BSAI groundfish, unless otherwise modified or superseded through publication of a notification in the **Federal Register**.

Comments must be received at the following address no later than 4:30 p.m.,
A.l.t., January 16, 2016.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2014-0134, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2014-0134*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by

the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015) set the 2016 Bering Sea (BS) pollock TAC at 1,310,000 metric tons (mt), the 2016 BSAI Atka mackerel TAC at 54,817 mt, the 2016 BS Pacific cod TAC at 240,000 mt, and the AI Pacific cod TAC at 9,422 mt. In December 2015, the North Pacific Fishery Management Council (Council) recommended a 2016 BS pollock TAC of 1,340,000 mt, which is more than the 1,310,000 mt TAC established by the final 2015 and 2016 harvest specifications for groundfish in the BSAI. The Council also recommended a 2016 BSAI Atka mackerel TAC of 55,000 mt, which is more than the 54,817 mt TAC established by the final 2015 and 2016 harvest specifications for groundfish in the BSAI. Furthermore, the Council recommended a 2016 BS Pacific cod TAC of 238,680 mt, and an AI Pacific cod TAC of 12,839 mt, which is less than the BS Pacific cod TAC of 240,000 mt, and more than the AI Pacific cod TAC of 9,422 mt established by the final 2015 and 2016 harvest specifications for groundfish in the BSAI. The Council's recommended 2016 TACs, and the area and seasonal apportionments, are based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2015, which NMFS has determined is the best available scientific information for these fisheries.

Steller sea lions occur in the same location as the pollock, Atka mackerel, and Pacific cod fisheries and are listed as endangered under the Endangered Species Act

(ESA). Pollock, Atka mackerel, and Pacific cod are a principal prey species for Steller sea lions in the BSAI. The seasonal apportionment of pollock, Atka mackerel, and Pacific cod harvest is necessary to ensure the groundfish fisheries are not likely to cause jeopardy of extinction or adverse modification of critical habitat for Steller sea lions. NMFS published regulations and the revised harvest limit amounts for Atka mackerel, Pacific cod, and pollock fisheries to implement Steller sea lion protection measures to insure that groundfish fisheries of the BSAI are not likely to jeopardize the continued existence of the western distinct population segment of Steller sea lions or destroy or adversely modify their designated critical habitat (79 FR 70286, November 25, 2014). The regulations at § 679.20(a)(5)(i) specify how the BS pollock TAC will be apportioned. The regulations at § 679.20(a)(7) specify how the BSAI Pacific cod TAC will be apportioned. The regulations at § 679.20(a)(8) specify how the BSAI Atka mackerel TAC will be apportioned.

In accordance with § 679.25(a)(1)(iii), (a)(2)(i)(B), and (a)(2)(iv), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2015 SAFE report for this fishery, the current BSAI pollock, Atka mackerel, and Pacific cod TACs are incorrectly specified. Pursuant to § 679.25(a)(1)(iii), the Regional Administrator is adjusting the 2016 BS pollock TAC to 1,340,000 mt, the 2016 BSAI Atka mackerel TAC to 55,000, the 2016 BS Pacific cod TAC to 238,680 mt, and the AI Pacific cod TAC to 12,839 mt. Therefore, Table 2 of the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015) is revised consistent with this adjustment.

Pursuant to § 679.20(a)(5)(i), Table 5 of the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015) is revised for the 2016 BS allocations of pollock TAC to the directed pollock fisheries and to the Community Development Quota (CDQ) directed fishing allowances consistent with this adjustment. The Steller sea lion protection measure final rule (79 FR 70286, November 25, 2014), sets harvest limits for pollock in the A season (January 20 to June 10) in Areas 543, 542, and 541, see § 679.20(a)(5)(iii)(B)(6). In Area 541, the 2016 A season pollock harvest limit is no more than 30 percent, or 9,668 mt, of the AI ABC of 32,227 mt. In Area 542, the 2016 A season pollock harvest limit is no more than 15 percent, or 4,834 mt, of the AI ABC of 32,227 mt. In Area 543, the 2016 A season pollock harvest limit is no more than 5 percent, or 1,611 mt, of the AI pollock ABC of 32,227 mt.

TABLE 5—FINAL 2016 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA)¹

[Amounts are in metric tons]				
Area and sector	2016 Allocations	2016 A season ¹		2016 B season ¹
		A season DFA	SCA harvest limit ²	B season DFA
Bering Sea subarea TAC ¹	1,340,000	n/a	n/a	n/a
CDQ DFA	134,000	53,600	37,520	80,400
ICA ¹	48,240	n/a	n/a	n/a
AFA Inshore	578,880	231,552	162,086	347,328
AFA Catcher/Processors ³	463,104	185,242	129,669	277,862
Catch by C/Ps	423,740	169,496	n/a	254,244
Catch by CVs ³	39,364	15,746	n/a	23,618
Unlisted C/P Limit ⁴	2,316	926	n/a	1,389
AFA Motherships	115,776	46,310	32,417	69,466
Excessive Harvesting Limit ⁵	202,608	n/a	n/a	n/a
Excessive Processing Limit ⁶	347,328	n/a	n/a	n/a
Total Bering Sea DFA	1,157,760	463,104	324,173	694,656
Aleutian Islands subarea ABC	32,227	n/a	n/a	n/a
Aleutian Islands subarea TAC ¹	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	14,700	10,931	n/a	3,769
Area harvest limit ⁷ 541	9,668	n/a	n/a	n/a
542	4,834	n/a	n/a	n/a
543	1,611	n/a	n/a	n/a
Bogoslof District ICA ⁸	500	n/a	n/a	n/a

¹Pursuant to § 679.20(a)(5)(i)(A), the BS subarea pollock, after subtracting the CDQ DFA (10 percent) and the ICA (4.0 percent), is allocated as a DFA as follows: inshore sector - 50 percent, catcher/processor sector (C/P) - 40 percent, and mothership sector - 10 percent. In the BS subarea, 40 percent of the DFA is allocated to the A season (January 20-June 10) and 60 percent of the DFA is allocated to the B season (June 10-November 1). Pursuant to § 679.20(a)(5)(iii)(B)(2)(i) and (ii), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the pollock directed fishery.

²In the BS subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1.

³Pursuant to § 679.20(a)(5)(i)(A)(4), not less than 8.5 percent of the DFA allocated to listed catcher/processers shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processers.

⁴Pursuant to § 679.20(a)(5)(i)(A)(4)(iii), the AFA unlisted catcher/processers are limited to harvesting not more than 0.5 percent of the catcher/processers sector's allocation of pollock.

⁵Pursuant to § 679.20(a)(5)(i)(A)(6), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

⁶Pursuant to § 679.20(a)(5)(i)(A)(7), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

⁷Pursuant to § 679.20(a)(5)(iii)(B)(6), NMFS establishes harvest limits for pollock in the A season in Area 541 no more than 30 percent, in Area 542 no more than 15 percent, and in Area 543 no more than 5 percent of the Aleutian Islands pollock ABC.

⁸The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Pursuant to § 679.20(a)(8), Table 7 of the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015) is revised for the 2016 seasonal and spatial allowances, gear shares, CDQ reserve, incidental catch allowance, and Amendment 80 allocation of the BSAI Atka mackerel TAC consistent with this adjustment.

TABLE 7—FINAL 2016 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

Sector ¹	Season ^{2,3,4}	[Amounts are in metric tons]		
		2016 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District ⁵	Western Aleutian District
TAC	n/a	28,500	16,000	10,500
CDQ reserve	Total	3,050	1,712	1,124
	A	1,525	856	562
	Critical Habitat	n/a	514	337
	B	1,525	856	562
	Critical Habitat	n/a	514	337
ICA	Total	1,000	75	40
Jig ⁶	Total	122	0	0
BSAI trawl limited access	Total	2,433	1,421	0
	A	1,216	711	0
	Critical Habitat	n/a	426	0
	B	1,216	711	0
	Critical Habitat	n/a	426	0
Amendment 80 sectors	Total	21,895	12,792	9,337
	A	10,948	6,396	4,668
	B	10,948	6,396	4,668
Alaska Groundfish Cooperative	Total ⁶	12,349	7,615	5,742
	A	6,175	3,808	2,871
	Critical Habitat	n/a	2,285	1,723
	B	6,175	3,808	2,871
	Critical Habitat	n/a	2,285	1,723
Alaska Seafood Cooperative	Total ⁶	9,546	5,177	3,595
	A	4,773	2,589	1,798
	Critical Habitat	n/a	1,553	1,079
	B	4,773	2,589	1,798
	Critical Habitat	n/a	1,553	1,079

¹ Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

² Regulations at §§ 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

³ The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

⁴ Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to December 31.

⁵ Section 679.20(a)(8)(ii)(C)(I)(i) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of critical habitat; (a)(ii)(C)(I)(ii) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and (a)(8)(ii)(C)(2) requires the TAC in Area 543 shall be no more than 65 percent of ABC.

⁶ Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and ICA. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Pursuant to § 679.20(a)(7), Table 9 of the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015) is revised for the 2016 gear shares and seasonal allowances of the BSAI Pacific cod TAC consistent with this adjustment.

TABLE 9—FINAL 2016 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]					
Gear sector	Percent	2016 share of gear sector total	2016 share of sector total	2016 seasonal apportionment	
				Seasons	Amount
BS TAC	n/a	238,680	n/a	n/a	n/a
BS CDQ	n/a	25,539	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC	n/a	213,141	n/a	n/a	n/a
AI TAC	n/a	12,839	n/a	n/a	n/a
AI CDQ	n/a	1,374	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC	n/a	11,465	n/a	n/a	n/a
Western Aleutian Island Limit	n/a	3,377	n/a	n/a	n/a
Total BSAI non-CDQ TAC ¹	100	224,606	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	136,561	n/a	n/a	n/a
Hook-and-line/pot ICA ²	n/a	500	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	136,061	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	108,983	Jan 1-Jun 10	55,581
				Jun 10-Dec 31	53,402
Hook-and-line catcher vessel ≥ 60 ft LOA	0.2	n/a	448	Jan 1-Jun 10	228
				Jun 10-Dec 31	219
Pot catcher/processor	1.5	n/a	3,357	Jan 1-Jun 10	1,712
				Sept 1-Dec 31	1,645
Pot catcher vessel ≥ 60 ft LOA	8.4	n/a	18,798	Jan 1-Jun 10	9,587
				Sept 1-Dec 31	9,211
Catcher vessel < 60 ft LOA using hook-and-line or pot gear	2	n/a	4,476	n/a	n/a
Trawl catcher vessel	22.1	49,638	n/a	Jan 20-Apr 1	36,732
				Apr 1-Jun 10	5,460
				Jun 10-Nov 1	7,446
AFA trawl catcher/processor	2.3	5,166	n/a	Jan 20-Apr 1	3,874
				Apr 1- Jun 10	1,291
				Jun 10-Nov 1	0
Amendment 80	13.4	30,097	n/a	Jan 20-Apr 1	22,573
				Apr 1- Jun 10	7,524
				Jun 10-Nov 1	0
Alaska Groundfish Cooperative	n/a	n/a	4,751	Jan 20-Apr 1	3,563
				Apr 1- Jun 10	1,188
				Jun 10-Dec 31	0
Alaska Seafood Cooperative	n/a	n/a	25,346	Jan 20-Apr 1	19,010
				Apr 1- Jun 10	6,337

				Jun 10-Dec 31	0
Jig	1.4	3,144	n/a	Jan 1-Apr 30	1,887
				Apr 30-Aug 31	629
				Aug 31-Dec 31	629

¹ The gear shares and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after the subtraction of CDQ. If the TAC for Pacific cod in either the AI or BS is reached, then directed fishing for Pacific cod in that subarea may be prohibited, even if a BSAI allowance remains.

² The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2016 based on anticipated incidental catch in these fisheries.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would allow for harvests that exceed the appropriate allocations for pollock, Atka mackerel, and Pacific cod in the BSAI based on the best scientific information available. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 28, 2015, and additional time for prior public comment would result in conservation concerns for the ESA-listed Steller sea lions.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until January 16, 2015.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 30, 2015.

Alan D. Risenhoover,

Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

